

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

LISA J. (GASTON) PARKS

Claimant

VS.

AUTOMOTIVE CONTROLS CORPORATION

Respondent

Self-Insured

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Docket No. 233,786

ORDER

The claimant appealed the July 19, 1999 preliminary hearing Order entered by Administrative Law Judge Jon L. Frobish.

ISSUES

This proceeding initially involved a claim for bilateral upper extremity injuries. But claimant now requests benefits for additional injuries to her arms and herniated discs in her neck as the result of a May 7, 1998 pickup truck accident, which she contends was solely caused by her work-related arm injuries. Claimant contends the truck accident was the natural result of her work-related injuries and, therefore, compensable under the Workers Compensation Act. The Judge found that the truck accident was a new and separate accident and denied claimant's request for benefits.

The only issue before the Appeals Board on this appeal is whether the May 7, 1998 accident was the natural and probable result of claimant's work-related bilateral arm injuries.

FINDINGS OF FACT

1. In December 1997, while working for Automotive Controls Corporation and packing heavy parts, Ms. Parks (formerly Gaston) began experiencing pain and numbness in both hands and arms.

2. After seeing her personal physician, the company referred Ms. Parks to doctors Gregory Mears and Brad W. Storm. Ms. Parks saw Dr. Mears on April 20, 1998, and Dr. Storm on April 23, 1998. Dr. Storm diagnosed bilateral carpal tunnel syndrome and

scheduled surgery for May 19, 1998. An EMG study done in April 1998 revealed that Ms. Parks had bilateral carpal tunnel syndrome, with the right arm worse than the left. Both doctors Mears and Storm restricted Ms. Parks to light duty work.

3. The company could not initially accommodate the light duty restriction, causing Ms. Parks to miss approximately two weeks of work. The company then notified her that it had found a job in the guard shack that it believed she could do.

4. Awaiting right carpal tunnel surgery and wearing wrist splints 24 hours per day, Ms. Parks questioned whether she could drive the 30 minutes to work.

5. On May 7, 1998, when driving to work the day that she was to begin working in the guard shack, Ms. Parks lost control of her pickup truck and hit a tree and a barbed wire fence. Ms. Parks testified the accident occurred because of the symptoms that she was then experiencing in her hands and arms. As a result of that accident, Ms. Parks alleges that she sustained additional injury to her arms and injured her neck. An MRI scan taken in December 1998 indicates that Ms. Parks has a disc herniation between the sixth and seventh levels of the cervical spine.

CONCLUSIONS OF LAW

1. The preliminary hearing Order should be affirmed.

2. Every direct and natural consequence that flows from a compensable injury, including a new and distinct injury, is also compensable under the Workers Compensation Act. In Jackson,¹ the Court held:

When a primary injury under the Workmen's Compensation Act is shown to have arisen out of the course of employment every natural consequence that flows from the injury, including a new and distinct injury, is compensable if it is a direct and natural result of a primary injury. (Syllabus 1.)

3. But the Jackson rule does not apply to new and separate accidental injuries. In Stockman² the Court attempted to clarify the rule:

The rule in Jackson is limited to the results of one accidental injury. The rule was not intended to apply to a new and separate accidental injury such as occurred in the instant case. The rule in Jackson would apply to a situation

¹ Jackson v. Stevens Well Service, 208 Kan. 637, 493 P.2d 264 (1972).

² Stockman v. Goodyear Tire & Rubber Co., 211 Kan. 260, 505 P.2d 697 (1973); Wietharn v. Safeway Stores, Inc., 16 Kan. App. 2d 188, 820 P.2d 719 (1991).

where a claimant's disability gradually increased from a primary accidental injury, but not when the increased disability resulted from a new and separate accident.

4. Ms. Parks argues that the May 1998 accident was the "direct and natural result" of the work-related injuries to her hands and arms. The Appeals Board disagrees. Although the bilateral arm injuries may have contributed to the May 1998 accident, the accident was not a "natural" result of her injuries in the sense that it occurred in the usual or expected course of events.³

WHEREFORE, the Appeals Board finds that the July 19, 1999 preliminary hearing Order should be affirmed.

IT IS SO ORDERED.

Dated this ____ day of September 1999.

BOARD MEMBER

c: Roger A. Riedmiller, Wichita, KS
Stephen J. Jones, Wichita, KS
Jon L. Frobish, Administrative Law Judge
Philip S. Harness, Director

³ See State Farm Mutual Automobile Ins. Co. v. Cromwell, 187 Kan. 573, 358 P.2d 761 (1961) and Rowell v. City of Wichita, 162 Kan. 294, 176 P.2d 590 (1947), where the Court defines natural and probable consequences as those which human foresight can anticipate because they happen so frequently they may be expected to recur.